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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,966	08/04/2003	Nnochiri Ekwuribe	9233-22DV	5037
24239	7590	11/02/2005	EXAMINER	
MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709			ROBINSON, HOPE A	
			ART UNIT	PAPER NUMBER
			1656	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/633,966	Applicant(s) EKWURIBE, NNOCHIRI	
	Examiner Hope A. Robinson	Art Unit 1656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-70 is/are pending in the application.
- 4a) Of the above claim(s) 49-61 and 66-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36 and 62 is/are rejected.
- 7) ☒ Claim(s) 37-48 and 63-65 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/4/03: 10/13/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Application Status

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1656.
2. Applicant's election without traverse of Group I (claims 33-47 and 61-64) on August 5, 2005 is acknowledged.

Claim Disposition

3. Claims 33-69 have been renumbered as claims 36-70 under Rule 1.126. Claims 36-70 are pending. Claims 36-48 and 62-65 are under examination. Claims 49-61 and 66-70 are withdrawn from further consideration pursuant to 37 CFR 1.12(b), as being drawn to a non-elected invention, there being no allowable generic or linking claim.

Information Disclosure Statement

4. The Information Disclosure Statements filed on August 4, 2003 and October 13, 2005 have been received and entered. The references cited on the PTO-1449 Form have been considered by the examiner and a copy is attached to the instant Office action.

Specification

5. The specification is objected to because of the following informalities:

The specification is objected to because the priority information on page 1 of the specification needs to be updated because U.S. application number 09/459,433 is now U.S. Patent No. 6,638,906.

Drawing

6. The drawings filed on August 4, 2003 have been accepted by the examiner.

Oath/Declaration

7. The Oath/Declaration is objected to because, non-initialed and/or non-dated alterations have been made to the oath or declaration, see the change made to country of citizenship. See 37 CFR 1.52(c).

Correction is required.

Sequence Compliance

8. The sequence listing filed in computer readable form (CRF) and paper copy on August 9, 2001 has been received and entered. It appears that the statement that affirms that the content of the sequence listing information in the CRF is identical to the paper copy of the sequence listing and where applicable includes no new matter is missing the new matter statement. It is suggested that Applicant re-submit this

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statement regarding no new matter and the sameness of the CRF and the paper copy of the sequence listing.

Claim Objection

9. Claims 36-48 and 62-65 are objected to because of the following informalities:

For clarity and precision of claim language it is suggested that claims 36 and 62 are amended to recite "A method for releasing cholecystokinin peptide in a subject", instead of A method of providing release of cholecystokinin in a subject".

Claims 37-48 and 63-65 are objected to as depending from a rejected based claim.

Correction of the above is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 36 and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Spannagel et al. (PNAS, vol. 93, pages 4415-4420, April 1996).

The claimed invention is directed to a method of providing release of cholecystokinin in a subject comprising administering LCRF. The reference by

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Spannagel et al. teach the release of cholecystokinin using LCRF (see abstract).

Limitations such as comprising a lysine residue etc., recited in the claims are viewed as inherent properties because they are not actual method steps, and since the reference teaches a CCK and CCK releasing factor, LCRF they are anticipated. Therefore, the limitations of the claims are met by the reference because the method claimed is directed to one step, administration of LCRF to achieve release and Spannagel et al. teaches said release.

Conclusion

11. No claims are allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr, can be reached at (571) 272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hope Robinson, MS *HR*

Patent Examiner *10/31/05*

**HOPE ROBINSON
PATENT EXAMINER**